SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 414

UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA-UE AND LOCAL 115-F, UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA-UE, PETITIONERS,

vs.

THE OLIVER CORPORATION

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

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[fol. 1]

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF IOWA, EASTERN DIVISION

No. 533 Civil

THE OLIVER CORPORATION, Plaintiff,

vs.

UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA—UE

and

LOCAL 115-F, UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA—UE, Defendants

NOTICE OF APPEAL—Filed July 26, 1952

SIRS:

Please take notice that the United Electrical, Radio & Machine Workers of America—UE and Local 115-F, United Electrical, Radio & Machine Workers of America—UE, defendants above named, hereby appeal to the Court of Appeals for the Eighth Circuit from the order of the United States District Court for the Northern District of Iowa, Eastern Division, entered on the 3rd day of July 1952, granting plaintiff's motion fixing the amount of the supersedeas bond on appeal to this Court from a judgment entered on the 20th day of March 1952 granting judgment to the plaintiff in the amount of $17,961.13 on Count 2 with interest of five percent from January 25th, 1951, and $48,761.40 on Count 3 with interest at five percent from February 12th, 1951, together with taxable costs of this [fol. 2] action in the sum of $592.06, in the amount of $75,000.00 to be filed on or before the 3rd day of August, 1952, and from each and every part of said order in each and every respect. July 24, 1952.

Attorneys for Defendants: R. J. Sullivan, New Hampton, Iowa; David Scribner, 11 East 51st Street, New York, New York.

To: Boyd C. Hayes, Esq., 608 Clark Street, Charles City, Iowa; R. W. Zastrow, Esq., 715½ Kelly Street, Charles

City, Iowa; Lee McNeely, Clerk, U. S. District Court for the Northern District of Iowa, Dubuque, Iowa.

Filed in U. S. Court of Appeals on July 28, 1952.

[fol. 3] Copy

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF IOWA, EASTERN DIVISION

[Title omitted]

ORDER FIXING AMOUNT OF SUPERSEDEAS AND COST BOND ON APPEAL

On July 2d, 1952, the defendants filed herein their Notice of appeal to the United States Court of Appeals for the Eighth Circuit from the judgment rendered against them in this case on March 20th, 1952. Counsel for the defendants have made oral request to the Court to fix the amount of the supersedeas and cost bond in connection with the appeal.

It is hereby ordered that the amount of the supersedeas bond on appeal be and the same is hereby fixed in the sum of Seventy-five Thousand Dollars ($75,000.00).

It is further ordered that the amount of the cost bond on appeal be and the same is hereby fixed in the sum of One Thousand Dollars ($1,000.00).

It is further ordered that if the defendants desire they may combine the two said amounts into one properly conditioned bond in the amount of Seventy-six Thousand Dollars ($76,000.00).

Signed in the Northern District of Iowa this 3rd day of July, 1952, for entry in the Eastern Division.

(S.) Henry N. Graven, United States District Judge.

Filed in the District Court July 3, 1952.
Filed in U. S. Court of Appeals on July 28, 1952.

[fol. 4] [File endorsement omitted]

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

[Title omitted]

ORDER TO SHOW CAUSE—Filed August 6, 1952

Upon the annexed affidavit of David Scribner, duly verified the 4th day of August, 1952, it is hereby

Ordered that the plaintiff-respondent show cause at a term of this Court, to be held in the Courthouse, Federal Building, at St. Paul, Minnesota, on the 11th day of August, 1952, at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard why an order should not be made staying the order of the court below entered on the 3rd day of July, 1952, fixing a supersedeas bond on appeal from a judgment entered on the 20th day of March, 1952, against the defendant-appellants in the amount of $75,000, said stay to be in effect pending the disposition of the appeal from that order, and for such other, further [fol. 5] and different relief as to this Court may seem just and proper in the premises; and it is further

Ordered that the order of the court below entered on the 3rd day of July, 1952 fixing a supersedeas bond on appeal in the amount of $75,000, and any execution on the part of the plaintiff-respondent of the judgment of March 20, 1952 be stayed pending the hearing and determination of this motion.

Sufficient reason appearing therefor, service of this order and the annexed affidavit upon the attorneys for the plaintiff-respondent shall be made on or before the 7th day of August, 1952, and shall be deemed sufficient.

Dated: St. Louis, Missouri, August 6, 1952.

[fol. 6] UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

[Title omitted]

AFFIDAVIT OF DAVID SCRIBNER

STATE OF NEW YORK,
County of New York, ss.:

David Scribner, being duly sworn, deposes and says: That he is one of the attorneys for the defendant-appellants herein and submits this affidavit in support of an order to stay the order of the court below entered on the 3rd day of July, 1952, fixing a supersedeas bond on appeal from a judgment entered on March 20, 1952 against the defendant-appellants in the amount of $75,000, said stay to be in effect pending the disposition of the appeal from that order.

On the 25th day of July, 1952 the defendant-appellants filed an appeal from the order of the court below entered on the 3rd day of July, 1952, fixing the amount of the super-[fol. 7] sedeas bond. The Court stayed proceedings until August 3, 1952, by which time defendant-appellants are required to post the bond to maintain the stay. The Hon. Henry Graven, Judge of the Federal District Court for the Northern District of Iowa, who presided at the trial of the action herein, entered the order subsequent to argument on the motion held on the 19th day of May, 1952.

The plaintiff-respondent, Oliver Corporation, is a corporation engaged in the manufacturing of farm and industrial equipment at several plants including one located at Charles City, Iowa. The defendant, United Electrical, Radio and Machine Workers of America (UE) (hereinafter called EOU) is a labor organization representing more than 300,000 employees in the United States and Canada. The United Electrical, Radio and Machine Workers of America, Local 115F (hereinafter called Local 115F (UE)) is a local union chartered by the parent organization UE. Local 115F (UE) is the collective bargaining agent for the production and maintenance employees of the Charles City plant of the plaintiff Oliver Corporation. On December 6, 1950, a collective bargaining agreement was entered into between Oliver Corporation and the UE in conjunction with and in behalf

of the local union and its members. There are approximately 1100 employees at the Charles City plant of the corporation, the over*hwle*ming majority of whom are members of the UE.

[fol. 8] The assets of the defendant organizations are derived solely from the monthly dues and assessments paid by the membership. The defendant labor organizations in serving as a collective bargaining agent of the employees seek to advance the well-being of the membership and the improvement of wages and working conditions. To so protect the interests of the membership machinery is established whereby the grievances of the employees against the company may be negotiated and amicably adjusted. The dues and assessments derived from the membership are utilized to police the various bargaining agreements, to expedite the handling of grievances and the negotiation of collective bargaining agreements. The defendant organizations are engaged in no activity or business for profit but have as their sole purpose collective bargaining in behalf of its members.

The UE was first organized in September of 1936 and has over the years continuously represented hundreds of thousands of employees in the el-ctrical, radio and machine industry. The local union has continuously represented the employees of the Charles City, Iowa plant of the Oliver corporation for many years.

In January and February of 1951, there was a dispute between the company and its employees, resulting in a partial diminution of production for a period of approximately two weeks. The plaintiff corporation instituted an action for breach of contract under Section 301 of the Labor [fol. 9] Management Relations Act of 1947 on the grounds that the defendants had breached the collective bargaining agreement by engaging in a work stoppage in January and February of 1951. A trial was held, and on March 20th, 1952, judgment was entered in behalf of defendants on Count 1, and in behalf of the plaintiff on Count 2, in the amount of $17,961.13 with interest of 5% from January 25, 1951 and $48,761.40 on Count 3 with interest at 5% from February 12, 1951, together with taxable costs of the action in the amount of $592.06.

On the 19th day of May, 1952 argument was heard before the trial judge on defendants' motions for judgment notwithstanding the verdicts and for a new trial. At that time there was argument as to the amount of the supersedeas bond to be required of the defendants, were their motions to be denied. On the 3rd day of June, 1952, the Hon. Henry Graven, denied defendants' motion for judgment notwithstanding the verdict and for a new trial.

On the 3rd day of July, 1952, an appeal from the judgment of March 20, 1952 on Counts 2 and 3, and the denial of the motions for judgment notwithstanding the verdict and for a new trial was filed in the United States District Court for the Northern District of Iowa.

As the Court Recorder had not at that time and to this date has not prepared the transcript of the trial below, the [fol. 10] court granted the defendant-appellants 90 days from July 2, 1952 within which to file and docket the record on appeal. On the 3rd day of June, 1952, the Court stayed further proceedings for a period of 60 days without bond and on the 3rd day of July, 1952, entered the order appealed from herein setting the amount of the supersedeas bond on appeal in the sum of $75,000.

The judgment of the court below in granting judgment in behalf of the defendants on Counts 2 and 3 on the 20th day of March, 1952, raises substantial questions of law and fact. This appeal brings into issue the applicability and interpretation of Section 301 of the National Labor Relations Act of 1947. The defendant-appellants appeal in part on the grounds that the Court below charged the jury contrary to the law and in a manner prejudicial to the defendants, improperly excluded evidence in the course of the trial and denied defendants an opportunity to prove the absence of damages allegedly suffered by the plaintiff respondent. Deponent will not in this affidavit attempt to set forth in any detail the substantial questions of fact and law which warrant the review and reversal of the judgment below.

On May 19, 1952, in argument before Hon. Henry Graven, defendant-appellants had requested the court to exercise its discretion pursuant to Rule 73 of the Federal Rules of Civil [fol. 11] Practice, fixing the amount of the supersedeas bond, at a minimal amount. At that time, Judge Graven

stated that as a matter of law it was no longer within his discretion to grant a supersedeas bond on appeal in an amount less than the actual judgment and that he was required to set bond in this instance in the full amount of the judgment, to wit, $75,000. While a record of the proceedings on the 19th day of May, 1952 was made by the Court Reporter, he has as of the date of this affidavit not prepared or completed the transcript. However, the facts as set forth above reflect in essence the statements of the court as would be found in the transcript.

An appeal from this order was taken pursuant to Rule 75(j) of the Federal Rules of Civil Practice which states as follows:

> "Record for Preliminary Hearing in Appellate Court. If, prior to the time the complete record on appeal is settled and certified as herein provided, a party desires to docket the appeal in order to make in the appellate court a motion for dismissal, for a stay pending appeal, for additional security on the bond on appeal or on the supersedeas bond, or for any intermediate order, the clerk of the district court at his request shall certify and transmit to the appellate court a copy of such portion of the record or proceedings below as is needed for that purpose."

The defendant-appellants have found it necessary to immediately appeal the order of July 3rd, 1952. A super- [fol. 12] sedeas bond fixed at the full amount of the judgment does serious and irreparable harm to the appellants and unless said order is reversed, it may frustrate or endanger the defendants' right to appeal from the judgment of March 20, 1952. As such an appeal could not possibly be heard within the time allotted to the defendant-appellants for the posting of the supersedeas bond, this motion for the staying of that order is made. Were the defendant-appellants to be required at this time to post a bond in the amount of $75,000, it would cause irreparable harm and hardship and would endanger the financial integrity of the organization and the ability of the organization to act in behalf of its membership. It would deprive the organizations of the funds now necessary for the servicing and maintenance of

their membership. The defendant UE is engaged in collective bargaining negotiations with General Electric Corporation, Westinghouse, and many other corporations throughout the country. In the course of such negotiations considerable sums of money must be spent. In addition, the day to day requirements of handling the thousands of grievances that arise in the plants throughout the country require the expenditure of considerable sums of money. Unnecessary and substantial injury would be caused the thousands of members of the union were the supersedeas bond to be filed prior to the determination of this appeal. The [fol. 13] plaintiff-respondent in no respect would be prejudiced.

The court below erred in its order of July 1952 in that it failed to exercise its discretion in setting the amount of the bond. Rule 73(d) of the Federal Rules of Civil Practice states that the Court has discretion in setting the amount or the nature of the security required for a supersedeas bond on appeal. The court below erroneously held that it could not exercise any discretion whether it desired to do so or not in that under Rule 73(d) no discretionary powers were vested in the District Court. Rule 73(d) provides in part as follows:

> "Supersedeas Bond. Whenever an appellant entitled thereto desires a stay on appeal, he may present to the court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. The bond shall be conditioned for the satisfaction of the judgment in full together with costs, interest, and damages as the appellate court adjudge and award. When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, interest and damages for delay, unless the court after notice and hearing and for good cause shown fixes a different amount or orders security other than the bond . . ."

The leading commentator of the Federal Rules, James W. Moore, in Moore's Federal Practice, Volume III, at p. 3383, states as follows in commenting on Rule 73(d):

> [fol. 14] "This modifies U.S.C. Title 28, Section 874, (supersedeas). Provisions have been here added for giving the District Court power to ameliorate the possible harshness of the present rules in the proper cases.",

and further stated in his commentaries on Rule 73(d),

> "The 'unless' clause gives the District Court power to ameliorate the possible harshness of the present rules in the unusual case."

Rule 62(g) of the Federal Rules of Civil Practice provides that this Court has the power to "stay proceedings during the pendency of an appeal . . . or to make any order appropriate to preserve the status quo or the effectiveness of the judgment substantially to be entered."

The issue posed by this appeal is of considerable importance not only to the defendant labor organizations and all other labor organizations, but also to any judgment debtor who wishes to exercise his right of appeal. If the District Court is denied the opportunity to exercise its discretion in the setting of the amount of the supersedeas bond, in many instances such irreparable harm could be done to the judgment debtor as to deny him in effect the benefits of an appeal to this court. Such would be the results in the present instance. This federal procedural question is of sufficient import and sufficiently affects substantial rights as to require an ultimate and uniform determination in the Federal Courts.

[fol. 15] Deponent in the interest of justice respectfully requests that this appeal be expeditiously heard and that pending such appeal, the order of the court below requiring the posting of a supersedeas bond in the amount of $75,000 be stayed. Only by granting of the stay may the irreparable harm caused by the order of the court below be forestalled. As the plaintiff-respondent will suffer no injury by the granting of this stay, it is respectfully requested that the relief sought in the motion be granted forthwith.

A notice of motion, motion and supporting affidavit seeking the relief requested in this order to show cause, were transmitted to the office of the Clerk of the Court of Appeals of the Eighth Circuit, on the 31st day of July, 1952. Subsequent to that time, at the suggestion of the Clerk, deponent's office communicated with Hon. A. K. Gardner, Chief Justice of this Court, at which time it was suggested that I bring this proceeding before the Court by an order to show cause. Deponent withdraws the aforesaid notice of motion, motion and supporting affidavit, and in its place proceeds solely by this order to show cause. Other than as set forth above, no prior application for the relief sought herein has been made.

David Scribner.

Sworn to before me this 4th day of August, 1952. Marshall Perlin, Notary Public, State of New York. No. 30-8327675. Qualified in Nassau County. Certs. filed with N. Y., Kings, Queens & Bronx Co. Clks. and N. Y. Co. Reg. Off. Term Expires March 30, 1954.

[fol. 16] [File endorsement omitted]

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

[Title omitted]

RESISTANCE TO ORDER TO SHOW CAUSE—Filed August 11, 1952

Comes now The Oliver Corporation, plaintiff-respondent, and states:

I. That on the 6th day of August, 1952, an order to show cause was issued by the above Court requiring plaintiff-respondent to show cause why an order entered on the 3rd day of July, 1952, by the United States District Court for the Northern District of Iowa, Eastern Division, fixing a supersedeas bond on appeal for a judgment entered on the 20th day of March, 1952, against the defendants-appellants in the amount of $75,000.00 should not be stayed pending disposition of the defendants-appellants appeal from said order.

II. Plaintiff-respondent shows cause why said order should not be granted staying the said order of the Court below, and respectfully resists said order to show cause, on the following grounds and for the following reasons:

1. That under Rule 73(d) Federal Rules of Civil Procedure the lower Court was without authority or discretion to fix a supersedeas bond herein in an amount less than $75,000.00.

2. That the affidavit of David Scribner in support of the order to show cause issued by this Court on August 6, 1952, states no grounds, facts, justification or legal reason for the stay of the lower Court's order of July 3, 1952, fixing the supersedeas bond on appeal herein in the sum of $75,000.00.
[fol. 17] 3. That a further stay of the lower Court's order of July 3, 1952, requiring the defendants-appellants to post a supersedeas bond on appeal from the judgment entered on March 20, 1952, might seriously impair the rights of the plaintiff-respondent in the collection of its judgment.

III. That in support of this Resistance there is hereto attached, and by this reference made a part hereof, the affidavit of Boyd G. Hayes, one of the attorneys for plaintiff-appellant.

Boyd G. Hayes, 608 Clark Street, Charles City, Iowa.
R. W. Zastrow, North Main Street, Charles City, Iowa. Attorneys for Plaintiff-respondent.

Service accepted this 11th day of August, 1952, at approximately 9:30 A.M. at St. Paul, Minn.

Kenneth J. Enkel, Attorney for Defendants.

[fol. 18] UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

[Title omitted]

AFFIDAVIT OF BOYD G. HAYES IN SUPPORT OF RESISTANCE TO ORDER TO SHOW CAUSE

STATE OF IOWA,
County of Floyd, ss.:

I, Boyd G. Hayes, being duly sworn, on oath depose and say as follows:

1. That I am one of the attorneys for the plaintiff-respondent herein and submit this affidavit in support of plaintiff-respondent's resistance to order to show cause issued by the above Court on August 6, 1952, requiring plaintiff-respondent to show cause why an order should not be made staying the order of the United States District Court for the Northern District of Iowa, entered on the 3rd day July, 1952, fixing a supersedeas bond on appeal (from a judgment entered on the 20th day of March, 1952, against the defendant-appellants) in the amount of $75,000.00.

2. That on March 20, 1952, the lower Court entered judgment in favor of the plaintiff and against the defendants in the sum of $17,961.13 with interest thereon at the rate of five per cent per annum from January 25, 1951, on Count II of plaintiff's petition, and for $48,761.40, with interest thereon at the rate of five per cent per annum from February 12, 1951, on Count III of plaintiff's petition, and for costs. Said judgment was entered pursuant to a verdict returned [fol. 19] by a jury after the trial of the cause. Plaintiff's claim was for damages against the defendants, and each of them, for breach of contract which action was brought under the provisions of the Labor Management Relations Act, 1947 (commonly called the Taft-Hartley Law) 61 Stat. 156, 29 U. S. C. A. 185. That said judgment is for the recovery of money not otherwise secured.

3. That after the entry of the judgment defendant-appellants filed their motion for judgment notwithstanding the verdict and for motion for new trial. That on June 3, 1952, the lower Court entered its order overruling said

motions and on said date made its further order staying further proceedings in said cause for sixty days without bond. The lower Court on June 3, 1952, entered its memorandum to counsel stating that the sixty day stay of proceedings without bond was granted so as to give the defendants time to file notice of appeal and to arrange for a supersedeas bond subsequently to be furnished, and stating further that it was the view of the Court that it would be more orderly procedure for the Court to await the filing of the notice of appeal before making orders in regard to those matters. That on July 3, 1952, the defendant-appellants filed their notice of appeal appealing from the order of June 3, 1952, overruling their motions for judgment notwithstanding the verdict and for new trial and appealing from the judgment dated March 20, 1952. That on July 3, 1952, the Court entered its order fixing the defendant-appellants' supersedeas bond in the sum of $75,000.00 and a cost bond on appeal in the sum of $1,000.00.

4. That under Rule 73 (d), Federal Rules of Civil Procedure the lower Court had no authority or discretion to fix the amount of the supersedeas bond in a sum less than $75,000.00.

5. That the defendant-appellants are unincorporated associations. That an order further staying the order of the lower Court entered on July 3, 1952, fixing the supersedeas bond on appeal in the sum of $75,000.00 might seriously impair and jeopardize plaintiff-respondent's collection of said judgment.

[fol. 20] Boyd G. Hayes, 608 Clark Street, Charles City, Iowa.

Subscribed and sworn to before me by the said Boyd G. Hayes this 7th day of August, 1952. Amelia H. Lofgren, Notary Public in and for Floyd County, Iowa. My Commission Expires: July 4, 1954.

[fol. 21] UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

[Title omitted]

ORDER DENYING APPLICATION OF APPELLANTS TO STAY ORDER OF DISTRICT COURT FIXING AMOUNT OF SUPERSEDEAS BOND, ETC.—August 11, 1952

Order was issued August 6, 1952, made returnable before this Court at St. Paul, Minnesota, on August 11, 1952, at 10:30 o'clock in the forenoon, requiring plaintiff-respondent in the Court below, The Oliver Corporation, to show cause why the Order of the United States District Court for the Northern District of Iowa entered on July 3, 1952, should not be stayed pending appeal, which said order fixed the amount of supersedeas bond in the sum of $75,000.00 on an appeal from a judgment entered March 20, 1952. Resistance to order to show cause with supporting affidavit was filed by appellee.

The motion of defendant-appellants for a stay was considered in the nature of an application to stay the order fixing the amount of supersedeas pending the appeal, or to fix the amount of supersedeas at an amount less than that fixed by the order of the District Court.

On Consideration of the showing made by the respective parties and the arguments of counsel, Mr. Kenneth J. Enkel of Minneapolis, Minnesota, appearing for appellants, and Mr. Boyd G. Hayes and Mr. R. W. Zastrow of Charles City, Iowa, for the appellee, the Court is of the opinion that the Order to show cause should be, and is hereby, discharged, [fol. 22] and the application as to order of the District Court fixing amount of supersedeas at $75,000.00 should be, and is hereby, denied, and the Court hereby declines to reduce the amount of the supersedeas bond fixed by the trial Court.

And it is further Ordered by the Court that appellants be, and they are hereby, granted forty days from this date in which to post supersedeas bond in accordance with the Order of the trial court.

August 11, 1952.

[fol. 23] UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA —UE, and Local 115-F, United Electrical, Radio & Machine Workers of America—UE, Appellants,

vs.

THE OLIVER CORPORATION

ORDER DISMISSING APPEAL FROM ORDER OF DISTRICT COURT FIXING AMOUNT OF SUPERSEDEAS BOND, ETC.—August 11, 1952

This is an appeal taken from an Order of the United States District Court for the Northern District of Iowa in its cause No. 533, Civil, entered July 3, 1952, fixing a supersedeas bond on appeal in the amount of $75,000.00 from a judgment entered on March 20, 1952, and this Court being of the opinion that said Order fixing amount of supersedeas is not appealable, It is therefore Ordered that this purported appeal from said order be, and it is hereby, dismissed.

August 11, 1952.

[fol. 24] UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

[Title omitted]

ORDER STAYING ORDER CONCERNING SUPERSEDEAS BOND, ETC.— September 17, 1952

On application of Mr. Kenneth J. Enkel, counsel for appellants, It is Ordered by this Court that the appellants be, and they are hereby granted a stay of the order of this Court entered August 11, 1952, denying the application of appellants to stay order of the District Court of July 3, 1952, fixing amount of supersedeas at the sum of $75,000.00 pending appeal to this Court from the judgment of the District Court of March 20, 1952, or to fix the amount of supersedeas at an amount less than that sum, but granting appellants forty days from August 11, 1952, in which to post supersedeas bond in accordance with the order of the trial court.

The stay hereby granted is for a period of thirty days from and after this date, and if within this period proposed petition for writ of certiorari is filed in the Supreme Court of the United States in these causes and remains undisposed of, then a further stay is hereby granted pending the ruling of the Supreme Court.

September 17, 1952.

[fol. 25] UNITED STATES COURT OF APPEALS

[Title omitted]

ORDER STAYING ISSUANCE OF MANDATE, ETC.—September 17, 1952

On Consideration of the motion of the appellants for a stay of the mandate in this cause pending a petition to the Supreme Court of the United States for a writ of certiorari, it is now here ordered by this Court that the issuance of the mandate herein be, and the same is hereby, stayed for a period of thirty days from and after this date, and if within said period of thirty days there is filed with the Clerk of this Court a certificate of the Clerk of the Supreme Court of the United States that a petition for writ of certiorari, record and brief have been filed, the stay hereby granted shall continue until the final disposition of the case by the Supreme Court.

September 17, 1952.

[fol. 26] [File endorsement omitted]

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF IOWA, EASTERN DIVISION

[Title omitted]

MOTION OF APPEAL—Filed July 2, 1952

SIRS:

Please take notice that the United Electrical, Radio & Machine Workers of America—UE, and Local 115-F, United Electrical, Radio & Machine Workers of America—UE,

defendants above named, hereby appeal to the Court of Appeals for the Eighth Circuit from the order of the United States District Court for the Northern District of Iowa, Eastern Division, entered on June 3rd, 1952, overruling and denying defendants' motion for judgment notwithstanding the verdict and defendants' motion for a new trial; and from the order and judgment of that court granting judgment to the plaintiff in the amount of $17,961.13 on Count 2, with interest at five per cent from January 25, 1951, and $48,761.40 on Count 3, with interest at five per cent from February 12, 1951, together with taxable costs [fol. 27] of this action in the sum of $592.06, filed and entered on March 20th, 1952.

Defendants appeal from these orders and judgments in each and every respect, and from all proceedings during the trial of said cause.

July 1, 1952.

Attorneys for Defendants: R. J. Sullivan, New Hampton, Iowa. David Scribner, 11 East 51st Street, New York, New York.

To: Boyd G. Hayes, Esq., 608 Clark Street, Charles City, Iowa. R. W. Zastrow, Esq., 715½ Kelly Street, Charles City, Iowa. Lee McNeely, Clerk, U. S. District Court for the Northern District of Iowa, Dubuque, Iowa.

Filed in U. S. Court of Appeals on July 28, 1952.

[fol. 28] Clerk's Certificate to foregoing transcript omitted in printing.